

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:08-cr-255-04

v.

HONORABLE PAUL L. MALONEY

ANTHONY SMITH,

Defendant.

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MEMORANDUM OPINION AND ORDER

Defendant Anthony Smith has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

However, the defendant was sentenced to the statutorily authorized maximum sentence of 48 months imprisonment on each of Counts 1 and 2, to be served consecutively for a total of 96 months. The new calculation does not result in a lower guideline range. Accordingly, the amendments are of no assistance to the defendant. Therefore,

IT IS HEREBY ORDERED that Defendant Anthony Smith's motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 178) is **DENIED**.

Date: May 24, 2012

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge